transform the IRS into a modern service organization. I believe they will vastly enhance service and accountability to the taxpayer.

I look forward to working with my colleague from Maryland, Mr. CARDIN, Members of the House and Senate, and the administration to improve and refine this bill during the legislative process so that, together, we can transform the Internal Revenue Service into a modern, efficient organization that truly serves the American taxpayer.

NEW FEDERAL FIREARMS LICENSE CATEGORY FOR GUNSMITHS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. KLECZKA. Mr. Speaker, I call the attention of the House to a problem affecting gunsmiths as a result of the 1994 Crime Act.

The 1994 law contained a provision requiring applicants for a new Federal firearms license, or renewal of an existing one, to prove that they are in compliance with any State or local zoning ordinances. Many States and localities have zoning laws that prevent individuals from obtaining dealers' licenses. For licensing purposes, the term ''dealer'' includes any person who makes or repairs firearms, which includes gunsmiths. Therefore, many gunsmiths are now being denied their Federal firearms license.

One of my constituents, who is a gunsmith, informed me about his difficulties in complying with the Crime Act. As a result, I have introduced legislation to create a new Federal firearms license category for gunsmiths. The Bureau of Alcohol, Tobacco, and Firearms, which administers the Federal license categories, supports creating this new category.

My legislation will not allow gunsmiths to sell or transfer firearms, but it will permit them to continue to work in their profession. I urge my colleagues to support this bill.

UNITED STATES INVESTORS IN LLOYD'S OF LONDON DESERVE THEIR DAY IN UNITED STATES COURT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. HYDE. Mr. Speaker, as chairman of the House Judiciary Committee, I am interested in matters concerning Federal court jurisdiction. For many years, citizens of Illinois and other States were solicited in their States to invest in Lloyd's of London insurance syndicates. In many instances, these investors have been denied access to the Federal courts where they attempted to assert their rights and remedies under the Federal securities statutes. Investors asserting securities claims against Lloyd's have seen their cases thrown out of court based on clauses in Lloyd's investment contracts which provide for the application of English law and the forum of the English courts. (Choice Clauses). I am heartened, however, by the recent appeals court ruling in *Richards* v. *Lloyd's of London* and strong pronouncements by the Securities and Exchange Commission in that appeal, which recognize the statutory bar against agreements which waive compliance with the Federal securities laws. The *Richards* decision, unless set aside by the full ninth circuit court of appeals or the Supreme Court, clears the way for the investors to have the chance to prove their case where it belongs—in U.S. district court.

The plaintiffs in *Richards*—known as ''Names''—allege that Lloyd's defrauded them by concealing that the insurance syndicates to which they furnished capital were saddled with massive asbestos and toxic waste liabilities. They assert that, for two decades, Lloyd's undertook a major recruitment program in the United States by offering investment contracts by which residents of the United States could become ''External Names'' at Lloyd's—passive investors who were prohibited from being involved with the operations and management of Lloyd's syndicates or business operations. Plaintiffs in *Richards* claim that Lloyd's alleged fraud cost them many million of dollars. They also seek rescission of their agreements with Lloyd's on the grounds that Lloyd's allegedly sold them unregistered, nonexempt securities and made material representatives or omitted material facts.

Mr. Speaker, for over 60 years there has been a statutory bar against contracts with investors that waive compliance with the Federal securities laws. Section 14 of the Securities Act of 1933 provides:

> Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this title or of the rules and regulations of the Commission [the SEC] shall be void.

15 U.S.C. §77 n. The bar of Section 29(a) of the 1934 Act is substantially the same. 15 U.S.C. §78cc(a).

In *Richards,* a panel of the Ninth Circuit ruled, 2–1, that because of the Choice Clauses would strip plaintiffs of all their rights under the Federal securities laws, they violate the anti-waiver statutes and are thus void. The court remanded the case to the federal district court where the plaintiffs will have the opportunity to present a case that Lloyd's fraudulently sold them unregistered securities and that the court should order rescission of their investment contacts with Lloyd's and other relief.

I would like to cite several portions of the *Richards* opinion which show the eminent logic of this result:

> The district court made an error of law in supposing that the Choice Clauses were unenforceable only if unreasonable. Congress had already determined that such clauses were void. It was not for a court to weigh their reasonableness, not for a court to say whether they offended any policy of the United States. The policy decision had been made by the legislature.
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> Is there a significant difference between a *policy* objection to enforcement of the antiwaiver bars and a *statutory* obstacle to such enforcement? We believe there is. Where a statute exists, a policy has been given form and focus and precise force. A statute represents a decision by the elected representatives of the people as to what particular policy should prevail, and how.
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> There is no question that the Choice Clauses operate in tandem as a prospective waiver of the plaintiffs' remedies under the 1933 and 1934 Acts. If the Supreme Court would condemn such clauses where they work against a public policy embodied in statutes even through the statutes themselves do not void the clauses, a fortiori the Supreme Court would condemn similar clauses when the run in the teeth of two precise statutory provisions making them void.
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> Congress was no ignorant of the potential international character of securities transactions. Congress specifically modified the 1933 Act to cover transactions in foreign commerce. S. Rep. No. 47, 73d Cong., 1st Sess. (1933) (accompanying S. 875.) A court should not apply the reasonableness test or say whether the clauses offended any policy of the United States when Congress has expressly made that determination. We do not believe that we should turn the clock back to 1929 or introduce caveat emptor as a rule governing the solicitation in the United States of investments in securities by residents of the United States.

In addition, the SEC filed two briefs, amicus curiae in *Richards* and participated in oral argument in favor of reversing the district court's enforcement of the Choice Clauses. The SEC's position is correct in my view, and I would like to share some of the SEC's compelling statements:

> The issue addressed is an important one to the enforcement of the federal securities laws. The district court's decision, if upheld, would allow foreign promoters of securities undertaking large scale selling efforts in the United States to avoid private liability under the securities laws simply by requiring the American investors to agree to resolve disputes in a foreign jurisdiction under foreign law, even if the remedies available under the foreign law were far less effective than those available under United States law. Such a holding would seriously impair the ability of defrauded investors to obtain compensation for their losses, and would hamper the deterrent function of the federal securities laws by discouraging private actions. The Commission strongly urges this court to reverse the district court's erroneous dismissal of this action.
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> The fact that the investors agreed to these provision is irrelevant, since the very objective of the antiwaiver provisions is to invalidate such agreements. As the Supreme Court held in *Shearson/American Express Inc.* v. *McMahon,* 482 U.S. 220, 230 (1987), ''[t]he voluntariness of the agreement is irrelevant to this inquiry: if a stipulation waives compliance with a statutory duty, it is void under [the antiwaiver provisions], whether voluntary or not.
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> In this case, in contrast, the requirement that investors litigate in England, coupled with the requirement that they do so under English law, not only ''weakens'' the investors' ability to recover, but in fact precludes any possibility of recovery under the federal securities laws. These clauses are directly contrary to express statutory prohibitions in the antiwaiver provisions and should be held void.
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> The antiwaiver provisions, however, are not simply an expression of public policy that favors United States securities laws unless other comparable laws are available. Rather, they are an express and unequivocal directive that the rights and obligations under the securities laws cannot be waived.